



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Intellectual Property Department
Dura Automotive Systems, Inc.
2791 Research Drive
Rochester Hills, MI 48309

In re Application of
Ronnie G. Gipson
Application No. 10/045,223
Filed: November 9, 2001
For: ARTICULATED WINDOW PANEL WITH
HIDDEN HINGE FOR VEHICLES

MAILED
JAN 15 2003
DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in response to applicant's request to withdraw the holding of abandonment filed in the United States Patent and Trademark Office on October 4, 2003.

The petition is **DISMISSED**.

A review of the file record indicates that an Office Action was mailed to applicant on February 14, 2003 wherein a three-month shortened statutory period for response was set. Since no timely response to the February 14, 2003 Office Action was received and the six-month statutory time period for reply has expired, the application was abandoned and a notice to that effect was mailed on September 24, 2003.

Petitioner states that a response was filed on April 4, 2003 by facsimile. The copy of the response submitted with the petition includes a Certificate of Transmission dated April 4, 2003.

It is noted the petition is signed by practitioner's paralegal. Petitions must be filed by registered practitioners. Therefore the petition will not be further treated on the merits.

Should applicant renew the petition to withdraw the holding of abandonment it is recommended applicants review section 512 of the MPEP. This section sets forth the procedure applicants must follow for verification of timely transmitted responses with a Certificate of Transmission, sent by facsimile, when the application has been improperly held abandoned.

MPEP 512 states:

"(C) When the certification is presented on a **separate sheet**, that sheet must (1) be signed and (2) **fully identify** and be securely attached to the paper it accompanies. The required identification should include the

application number and filing date of the application as well as the type of paper being filed, e.g., reply to rejection or refusal, Notice of Appeal, etc...

Moreover, without the proper identifying data, a certification presented on a separate sheet will not be considered acceptable if there is any question or doubt concerning the connection between the sheet and the paper filed."

Should applicant's feel that a subsequent petition to withdraw the Holding of Abandonment will not be granted applicant may wish to consider filing a petition to revive under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay) as discussed below.

I. Unavoidable Delay.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: **(1)** the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; **(2)** the petition fee required by 37 CFR 1.17(l); and **(3)** an adequate showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable. This includes a satisfactory showing that the cause of the delay resulting in failure to reply in a timely fashion to the Office action was unavoidable. Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b) might be appropriate.

II. Unintentional Delay.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: **(1)** the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; **(2)** the petition fee required by 37 CFR 1.17(m); and **(3)** a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The petition fee required by law for filing a petition under unavoidable standard is \$110. The fee for a petition under the unintentional standard is \$1,300. If applicant has, or can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated.

If not previously filed, the reply to the outstanding Office action must accompany the petition to revive.

The required items should be promptly submitted under a cover letter entitled "Petition to Revive".

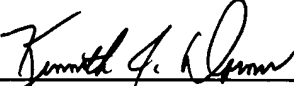
Further correspondence with respect to a petition to revive should be addressed as follows:

By mail: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By Hand: Crystal Plaza 4, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries regarding petitions to revive should be directed to the Office of Petitions Staff at (703) 305-9282.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."



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KJD/cps: 1/8/04